



House of Representatives

General Assembly

File No. 435

January Session, 2021

Substitute House Bill No. 6537

House of Representatives, April 14, 2021

The Committee on Labor and Public Employees reported through REP. PORTER of the 94th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING EXPANSION OF PAID SICK DAYS AND DOMESTIC WORKER COVERAGE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-57r of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2021*):

3 As used in this section and sections 31-57s to 31-57w, inclusive, as
4 amended by this act:

5 (1) "Child" means a biological, adopted or foster child, stepchild, legal
6 ward of [a service worker] an employee, or a child of a [service worker]
7 person standing in loco parentis [, who is (A) under eighteen years of
8 age; or (B) eighteen years of age or older and incapable of self-care
9 because of a mental or physical disability] or an individual to whom the
10 employee stood in loco parentis when the individual was a child;

11 [(2) "Day or temporary worker" means an individual who performs
12 work for another on (A) a per diem basis, or (B) an occasional or

13 irregular basis for only the time required to complete such work,
14 whether such individual is paid by the person for whom such work is
15 performed or by an employment agency or temporary help service, as
16 defined in section 31-129;]

17 [(3)] (2) "Employee" means an individual engaged in service to an
18 employer in the business of the employer;

19 [(4)] (3) "Employer" means any person, firm, business, educational
20 institution, nonprofit agency, corporation, limited liability company or
21 other entity, [that employs fifty or more individuals in the state, which
22 shall be determined based on such person's, firm's, business',
23 educational institution's, nonprofit agency's, corporation's, limited
24 liability company's or other entity's payroll for the week containing
25 October first, annually. "Employer" does not include: (A) Any business
26 establishment classified in sector 31, 32 or 33 in the North American
27 Industrial Classification System, or (B) any nationally chartered
28 organization exempt from taxation under Section 501(c)(3) of the
29 Internal Revenue Code of 1986, or any subsequent corresponding
30 internal revenue code of the United States, as from time to time
31 amended, that provides all of the following services: Recreation, child
32 care and education;] except that the Personal Care Attendant Workforce
33 Council established under section 17b-706a shall act on behalf of the
34 employers of all personal care attendants, as defined in section 17b-706;

35 (4) "Family member" means a spouse, sibling, child, grandparent,
36 grandchild or parent, or an individual related to the employee by blood
37 or affinity whose close association with the employee is the equivalent
38 of those family relationships;

39 (5) "Family violence" has the same meaning as provided in section
40 46b-38a;

41 (6) "Grandchild" means a grandchild related to a person by: (A)
42 Blood, (B) marriage, (C) adoption by a child of the grandparent, or (D)
43 foster care by a child of the grandparent;

44 (7) "Grandparent" means a grandparent related to a person by: (A)
45 Blood, (B) marriage, (C) adoption of a minor child by a child of the
46 grandparent, or (D) foster care by a child of the grandparent;

47 (8) "Parent" means a biological parent, foster parent, adoptive parent,
48 stepparent, parent-in-law or legal guardian of an employee or an
49 employee's spouse, an individual standing in loco parentis to an
50 employee, or an individual who stood in loco parentis to the employee
51 when the employee was a child;

52 (9) "Paid sick leave" means paid time that is provided by an employer
53 to an employee for the purposes described in section 31-57t, as amended
54 by this act;

55 ~~[(6)]~~ (10) "Retaliatory personnel action" means any termination,
56 suspension, constructive discharge, demotion, unfavorable
57 reassignment, refusal to promote, disciplinary action or other adverse
58 employment action taken by an employer against an employee or a
59 service worker;

60 [(7) "Service worker" means an employee primarily engaged in an
61 occupation with one of the following broad or detailed occupation code
62 numbers and titles, as defined by the federal Bureau of Labor Statistics
63 Standard Occupational Classification system or any successor system:
64 (A) 11-9050 Food Service Managers; (B) 11-9110 Medical and Health
65 Services Managers; (C) 21-1020 Social Workers; (D) 21-1093 Social and
66 Human Service Assistants; (E) 21-1094 Community Health Workers; (F)
67 21-1099 Community and Social Service Specialists, All Other; (G) 25-
68 4020 Librarians; (H) 29-1050 Pharmacists; (I) 29-1070 Physician
69 Assistants; (J) 29-1120 Therapists; (K) 29-1140 Registered Nurses; (L) 29-
70 1150 Nurse Anesthetists; (M) 29-1160 Nurse Midwives; (N) 29-1170
71 Nurse Practitioners; (O) 29-2020 Dental Hygienists; (P) 29-2040
72 Emergency Medical Technicians and Paramedics; (Q) 29-2050 Health
73 Practitioner Support Technologists and Technicians; (R) 29-2060
74 Licensed Practical and Licensed Vocational Nurses; (S) 31-1011 Home
75 Health Aides; (T) 31-1012 Nursing Aides, Orderlies and Attendants; (U)
76 31-1013 Psychiatric Aides; (V) 31-9091 Dental Assistants; (W) 31-9092

77 Medical Assistants; (X) 33-9032 Security Guards; (Y) 33-9091 Crossing
78 Guards; (Z) 35-1010 Supervisors of Food Preparation and Serving
79 Workers; (AA) 35-2010 Cooks; (BB) 35-2020 Food Preparation Workers;
80 (CC) 35-3010 Bartenders; (DD) 35-3020 Fast Food and Counter Workers;
81 (EE) 35-3030 Waiters and Waitresses; (FF) 35-3040 Food Servers,
82 Nonrestaurant; (GG) 35-9010 Dining Room and Cafeteria Attendants
83 and Bartender Helpers; (HH) 35-9020 Dishwashers; (II) 35-9030 Hosts
84 and Hostesses, Restaurant, Lounge and Coffee Shop; (JJ) 35-9090
85 Miscellaneous Food Preparation and Serving Related Workers; (KK) 37-
86 2011 Janitors and Cleaners, Except Maids and Housekeeping Cleaners;
87 (LL) 37-2019 Building Cleaning Workers, All Other; (MM) 39-3030
88 Ushers, Lobby Attendants and Ticket Takers; (NN) 39-5010 Barbers,
89 Hairdressers, Hairstylists and Cosmetologists; (OO) 39-6010 Baggage
90 Porters, Bellhops and Concierges; (PP) 39-9010 Child Care Workers;
91 (QQ) 39-9021 Personal Care Aides; (RR) 41-1010 First-Line Supervisors
92 of Sales Workers; (SS) 41-2011 Cashiers; (TT) 41-2021 Counter and
93 Rental Clerks; (UU) 41-2030 Retail Salespersons; (VV) 43-3070 Tellers;
94 (WW) 43-4080 Hotel, Motel and Resort Desk Clerks; (XX) 43-4170
95 Receptionists and Information Clerks; (YY) 43-5020 Couriers and
96 Messengers; (ZZ) 43-6010 Secretaries and Administrative Assistants;
97 (AAA) 43-9010 Computer Operators; (BBB) 43-9020 Data Entry and
98 Information Processing Workers; (CCC) 43-9030 Desktop Publishers;
99 (DDD) 43-9040 Insurance Claims and Policy Processing Clerks; (EEE)
100 43-9050 Mail Clerks and Mail Machine Operators, Except Postal Service;
101 (FFF) 43-9060 Office Clerks, General; (GGG) 43-9070 Office Machine
102 Operators, Except Computer; (HHH) 43-9080 Proofreaders and Copy
103 Markers; (III) 43-9110 Statistical Assistants; (JJJ) 43-9190 Miscellaneous
104 Office and Administrative Support Workers; (KKK) 51-3010 Bakers;
105 (LLL) 51-3020 Butchers and Other Meat, Poultry and Fish Processing
106 Workers; (MMM) 51-3090 Miscellaneous Food Processing Workers;
107 (NNN) 53-3010 Ambulance Drivers and Attendants, Except Emergency
108 Medical Technicians; (OOO) 53-3020 Bus Drivers; (PPP) 53-3040 Taxi
109 Drivers and Chauffeurs; or (QQQ) 29-2034 Radiologic Technologists,
110 and is (i) paid on an hourly basis, or (ii) not exempt from the minimum
111 wage and overtime compensation requirements of the Fair Labor

112 Standards Act of 1938 and the regulations promulgated thereunder, as
113 amended from time to time. "Service worker" does not include day or
114 temporary workers;]

115 ~~[(8)]~~ [(11)] "Sexual assault" means any act that constitutes a violation of
116 section 53a-70b of the general statutes, revision of 1958, revised to
117 January 1, 2019, or section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or
118 53a-73a;

119 [(12)] "Sibling" means a brother or sister related to a person by: (A)
120 Blood, (B) marriage, (C) adoption by a parent of the person, or (D) foster
121 care placement;

122 ~~[(9)]~~ [(13)] "Spouse" means a husband or wife, as the case may be; and

123 ~~[(10)]~~ [(14)] "Year" means any three-hundred-sixty-five-day period
124 used by an employer to calculate employee benefits.

125 Sec. 2. Section 31-57s of the general statutes is repealed and the
126 following is substituted in lieu thereof (*Effective July 1, 2021*):

127 (a) Each employer shall provide paid sick leave annually to each of
128 such employer's [service workers] employees in the state. Such paid sick
129 leave shall accrue (1) beginning [January 1, 2012] July 1, 2021, or for [a
130 service worker] an employee hired after said date, beginning on the
131 [service worker's] employee's date of employment, (2) at a rate of one
132 hour of paid sick leave for each [forty] thirty hours worked by [a service
133 worker] the employee, and (3) in one-hour increments up to a maximum
134 of forty hours per year. [Each service worker] Each employee shall be
135 entitled to carry over up to forty unused accrued hours of paid sick leave
136 from the current year to the following year, but no [service worker]
137 employee shall be entitled to use more in any year than the maximum
138 number of accrued hours, as described in subdivision (3) of this
139 subsection, in any year. An employer may provide all paid sick leave
140 that an employee is expected to accrue in a year at the beginning of the
141 year.

142 (b) [A service worker] An employee shall be entitled to the use of

143 [accrued] paid sick leave [upon the completion of the service worker's
144 six-hundred-eightieth hour of employment from January 1, 2012, if the
145 service worker was hired prior to January 1, 2012, or if hired after
146 January 1, 2012, upon the completion of the service worker's six-
147 hundred-eightieth hour of employment from the date of hire, unless the
148 employer agrees to an earlier date. A service worker shall not be entitled
149 to the use of accrued paid sick leave if such service worker did not work
150 an average of ten or more hours per week for the employer in the most
151 recent complete quarter] as it is accrued.

152 (c) An employer shall be deemed to be in compliance with this section
153 if the employer offers any other paid leave, or combination of other paid
154 leave that (1) may be used for the purposes of, and under the same
155 conditions as provided in, section 31-57t, as amended by this act, and (2)
156 is accrued in total at a rate equal to or greater than the rate described in
157 [subsections] subsection (a) [and (b)] of this section. For the purposes of
158 this subsection, "other paid leave" may include, but not be limited to,
159 paid vacation, personal days or paid time off.

160 (d) Each employer shall pay each [service worker] employee for paid
161 sick leave at a pay rate equal to the greater of either (1) the normal
162 hourly wage for that [service worker] employee, or (2) the minimum fair
163 wage rate under section 31-58 in effect for the pay period during which
164 the employee used paid sick leave. For any [service worker] employee
165 whose hourly wage varies depending on the work performed by the
166 [service worker] employee, "normal hourly wage" means the average
167 hourly wage of the [service worker] employee in the pay period prior to
168 the one in which the [service worker] employee used paid sick leave.

169 [(e) Notwithstanding the provisions of this section and sections 31-
170 57t to 31-57w, inclusive, and upon the mutual consent of the service
171 worker and employer, a service worker who chooses to work additional
172 hours or shifts during the same or following pay period, in lieu of hours
173 or shifts missed, shall not use accrued paid sick leave.]

174 (e) Employees who are exempt from overtime requirements under 29
175 USC 213 (a)(1), as amended from time to time, shall be assumed to work

176 forty hours in each work week for purposes of paid sick leave accrual
177 unless their normal work week is less than forty hours, in which case
178 paid sick leave shall accrue based upon that normal work week.

179 (f) If an employee is transferred to a separate division, entity or
180 location but remains employed by the same employer, the employee
181 shall retain and be entitled to use all paid sick leave the employee
182 accrued or received at the prior division, entity or location. If a different
183 employer succeeds or takes the place of an existing employer, each
184 employee of the original employer who remains employed by the
185 successor employer shall retain and be entitled to use all paid sick leave
186 the employee accrued or received while employed by the original
187 employer.

188 (g) An employer may not require, as a condition of an employee's
189 taking paid sick leave, that the employee search for or find a
190 replacement worker to cover the hours during which the employee is
191 using paid sick leave.

192 ~~[(f)]~~ (h) No employer shall (1) terminate any employee, (2) dismiss
193 any employee, or (3) transfer any employee from one worksite to
194 another solely in order to not qualify as an employer, as defined in
195 section 31-57r, as amended by this act.

196 Sec. 3. Section 31-57t of the general statutes is repealed and the
197 following is substituted in lieu thereof (*Effective July 1, 2021*):

198 (a) An employer shall permit [a service worker] an employee to use
199 the paid sick leave accrued pursuant to section 31-57s, as amended by
200 this act:

201 (1) For (A) [a service worker's] an employee's illness, injury or health
202 condition, (B) the medical diagnosis, care or treatment of [a service
203 worker's] an employee's mental illness or physical illness, injury or
204 health condition, or (C) preventative medical care for [a service worker]
205 an employee;

206 (2) For (A) a [service worker's child's or spouse's] family member's

207 illness, injury or health condition, (B) the medical diagnosis, care or
208 treatment of [a service worker's child's or spouse's] mental or physical
209 illness, injury or health condition, or (C) preventative medical care for a
210 [child or spouse of a service worker; and] family member;

211 (3) For closure of the employer's place of business by order of a public
212 official due to a public health emergency or an employee's need to care
213 for a family member whose school or place of care has been closed by
214 order of a public official due to a public health emergency, or to care for
215 oneself or a family member when it has been determined by a health
216 authority having jurisdiction, an employer of the employee or
217 employee's family member or a health care provider that the employee's
218 or family member's presence in the community may jeopardize the
219 health of others because of his or her exposure to a communicable
220 illness, whether or not the employee or family member has actually
221 contracted the communicable illness; and

222 [(3)] (4) Where [a service worker] an employee or an employee's
223 family member is a victim of family violence or sexual assault (A) for
224 medical care or psychological or other counseling for physical or
225 psychological injury or disability, (B) to obtain services from a victim
226 services organization, (C) to relocate due to such family violence or
227 sexual assault, or (D) to participate in any civil or criminal proceedings
228 related to or resulting from such family violence or sexual assault.

229 (b) If [a service worker's] an employee's need to use paid sick leave is
230 foreseeable, an employer may require advance notice, not to exceed
231 seven days prior to the date such leave is to begin, of the intention to use
232 such leave. If [a service worker's] an employee's need for such leave is
233 not foreseeable, an employer may require [a service worker] an
234 employee to give notice of such intention as soon as practicable. For paid
235 sick leave of three or more consecutive days, an employer may require
236 reasonable documentation that such leave is being taken for one of the
237 purposes permitted under subsection (a) of this section. If such leave is
238 permitted under subdivision (1) or (2) of subsection (a) of this section,
239 documentation signed by a health care provider who is treating the

240 [service worker] employee or the [service worker's child or spouse]
241 family member indicating the need for the number of days of such leave
242 shall be considered reasonable documentation. If such leave is
243 permitted under subdivision [(3)] (4) of subsection (a) of this section, a
244 court record or documentation signed by [a service worker] an
245 employee or volunteer working for a victim services organization, an
246 attorney, a police officer or other counselor involved with the [service
247 worker] employee shall be considered reasonable documentation. An
248 employer may not require that the documentation explain the nature of
249 the illness or the details of the family violence or sexual assault. If an
250 employer chooses to require documentation for paid sick leave under
251 this section and the employer does not offer health insurance to the
252 employee, the employer is responsible for paying all out-of-pocket
253 expenses the employee incurs in obtaining the documentation. If the
254 employee has health insurance, the employer is responsible for paying
255 any costs charged to the employee by the health care provider for
256 providing the specific documentation required by the employer. The
257 employer is responsible for paying any costs charged to the employee
258 for documentation of family violence or sexual assault required by the
259 employer.

260 (c) Nothing in sections 31-57s to 31-57w, inclusive, as amended by
261 this act, shall be deemed to require any employer to provide paid sick
262 leave for [a service worker's] an employee's leave for any purpose other
263 than those described in this section.

264 (d) Unless an employee policy or collective bargaining agreement
265 provides for the payment of accrued fringe benefits upon termination,
266 no [service worker] employee shall be entitled to payment of unused
267 paid accrued sick leave under this section upon termination of
268 employment.

269 (e) Nothing in sections 31-57s to 31-57w, inclusive, as amended by
270 this act, shall be construed to prohibit an employer from taking
271 disciplinary action against [a service worker] an employee who uses
272 paid sick leave provided under said sections [31-57s to 31-57w,

273 inclusive,] for purposes other than those described in this section.

274 Sec. 4. Section 31-57u of the general statutes is repealed and the
275 following is substituted in lieu thereof (*Effective July 1, 2021*):

276 (a) Nothing in sections 31-57s to 31-57w, inclusive, as amended by
277 this act, shall be construed to (1) prevent employers from providing
278 more paid sick leave than is required under said sections, [31-57s to 31-
279 57w, inclusive,] (2) diminish any rights provided to any employee [or
280 service worker] under a collective bargaining agreement, or (3) preempt
281 or override the terms of any collective bargaining agreement effective
282 prior to January 1, 2012.

283 (b) Nothing in sections 31-57s to 31-57w, inclusive, as amended by
284 this act, shall be construed to prohibit an employer (1) from establishing
285 a policy whereby [a service worker] an employee may donate unused
286 accrued paid sick leave to another [service worker] employee, and (2)
287 who provides more paid sick leave than is required under sections 31-
288 57s to 31-57w, inclusive, as amended by this act, for the purposes
289 described in subdivision (1) of subsection (a) of section 31-57t, as
290 amended by this act, from limiting the amount of such leave [a service
291 worker] an employee may use for other purposes.

292 (c) Any termination of [a service worker's] an employee's
293 employment by an employer, whether voluntary or involuntary, shall
294 be construed as a break in service. Should any [service worker]
295 employee subsequently be rehired by the employer following a break in
296 service, the [service worker] employee shall (1) begin to accrue sick
297 leave [in accordance with section 31-57s] immediately upon rehire, and
298 (2) shall [not] be entitled to any unused hours of paid sick leave that had
299 been accrued prior to the [service worker's] employee's break in service,
300 [unless agreed to by the employer.]

301 Sec. 5. Section 31-57v of the general statutes is repealed and the
302 following is substituted in lieu thereof (*Effective July 1, 2021*):

303 (a) No employer shall take retaliatory personnel action or

304 discriminate against an employee because the employee (1) requests or
305 uses paid sick leave either in accordance with sections 31-57s and 31-57t,
306 as amended by this act, or in accordance with the employer's own paid
307 sick leave policy, as the case may be, or (2) files a complaint with the
308 Labor Commissioner alleging the employer's violation of sections 31-57s
309 to 31-57w, inclusive, as amended by this act.

310 (b) The Labor Commissioner shall advise any employee who (1) is
311 covered by a collective bargaining agreement that provides for paid sick
312 days, and (2) files a complaint pursuant to subsection (a) of this section
313 of his or her right to pursue a grievance with his or her collective
314 bargaining agent.

315 (c) Any employee aggrieved by a violation of the provisions of
316 sections 31-57s to 31-57w, inclusive, as amended by this act, may file a
317 complaint with the Labor Commissioner. Upon receipt of any such
318 complaint, said commissioner may hold a hearing. After the hearing,
319 any employer who is found by the Labor Commissioner, by a
320 preponderance of the evidence, to have violated the provisions of
321 subsection (a) of this section shall be liable to the Labor Department for
322 a civil penalty of five hundred dollars for each violation. Any employer
323 who is found by the Labor Commissioner, by a preponderance of the
324 evidence, to have violated the provisions of sections 31-57s to 31-57u,
325 inclusive, as amended by this act, or section 31-57w, as amended by this
326 act, shall be liable to the Labor Department for a civil penalty of up to
327 one hundred dollars for each violation. The Labor Commissioner may
328 award the employee all appropriate relief, including the payment for
329 used paid sick leave, rehiring or reinstatement to the employee's
330 previous job, payment of back wages and reestablishment of employee
331 benefits to which the employee otherwise would have been eligible if
332 the employee had not been subject to such retaliatory personnel action
333 or discriminated against. Any party aggrieved by the decision of the
334 commissioner may appeal the decision to the Superior Court in
335 accordance with the provisions of chapter 54.

336 (d) The Labor Commissioner, the Attorney General or any person

337 aggrieved by a violation of any provision of sections 31-57s to 31-57w,
338 inclusive, as amended by this act, or any entity a member of which is
339 aggrieved by a violation of said sections, may bring a civil action in a
340 court of competent jurisdiction against an employer violating any of
341 said sections. Such action may be brought by a person aggrieved by
342 violation of this section without first filing an administrative complaint.

343 [(d)] (e) The Labor Commissioner shall administer this section within
344 available appropriations.

345 Sec. 6. Section 31-57w of the general statutes is repealed and the
346 following is substituted in lieu thereof (*Effective July 1, 2021*):

347 (a) Each employer subject to the provisions of section 31-57s, as
348 amended by this act, shall, at the time of hiring, provide notice to each
349 [service worker] employee (1) of the entitlement to sick leave for [service
350 workers] employees, the amount of sick leave provided to [service
351 workers] employees and the terms under which sick leave may be used,
352 (2) that retaliation by the employer against the [service worker]
353 employee for requesting or using sick leave for which the [service
354 worker] employee is eligible is prohibited, and (3) that the [service
355 worker] employee has a right to file a complaint with the Labor
356 Commissioner for any violation of this section and of sections 31-57s to
357 31-57v, inclusive, as amended by this act. Employers [may] shall comply
358 with the provisions of this section by (A) providing written notice to
359 each individual employee not later than January 1, 2022, or at the time
360 of hire, whichever is later, and (B) displaying a poster in a conspicuous
361 place, accessible to [service workers] employees, at the employer's place
362 of business that contains the information required by this section in both
363 English and Spanish, except that in cases where the employer does not
364 maintain a physical workplace or an employee teleworks or performs
365 work through a web-based or application-based platform, notification
366 shall be sent via electronic communication or a conspicuous posting on
367 a web-based or application-based platform. The Labor Commissioner
368 [may adopt regulations, in accordance with chapter 54, to establish
369 additional requirements concerning the means by which employers

370 shall provide such notice. The Labor Commissioner shall administer this
371 section within available appropriations.] shall provide such posters and
372 model written notices to all employers. Employers shall include in the
373 record of hours worked, wages earned and deductions required by
374 section 31-13a the number of hours, if any, of paid sick leave accrued or
375 received by the employee and the number of hours of paid sick leave
376 used by the employee in the calendar year.

377 (b) Employers shall retain records documenting hours worked by
378 employees and paid sick leave taken by employees for a period of three
379 years and shall allow the Labor Commissioner access to such records,
380 with appropriate notice and at a mutually agreeable time, to monitor
381 compliance with the requirements of this section. When an issue arises
382 as to an employee's entitlement to paid sick leave under this section, if
383 the employer does not maintain or retain adequate records
384 documenting hours worked by the employee and paid sick leave taken
385 by the employee or does not allow reasonable access to such records, it
386 shall be presumed that the employer has violated this section, absent
387 clear and convincing evidence otherwise.

388 (c) The Labor Commissioner may coordinate implementation and
389 enforcement of this section and sections 31-57s to 31-57v, inclusive, as
390 amended by this act, and shall adopt regulations in accordance with the
391 provisions of chapter 54 to implement the provisions of said sections.

392 (d) The Labor Commissioner may develop and implement a
393 multilingual outreach program to inform employees, parents and
394 persons who are under the care of a health care provider about the
395 availability of paid sick leave. Such program shall include the
396 distribution of notices and other written materials in English and
397 Spanish and any language that is the first language spoken by not less
398 than five per cent of the state's population to all child care and elder care
399 providers, domestic violence shelters, schools, hospitals, community
400 health centers and other health care providers.

401 (e) The Labor Commissioner shall administer this section within
402 available appropriations.

403 Sec. 7. (NEW) (*Effective from passage*) As used in this section and
404 sections 8 to 12, inclusive, of this act:

405 (1) "Child" means a biological, adopted or foster child, stepchild, or
406 legal ward, of an employee, or a child of a person standing in loco
407 parentis to an employee, or an individual to whom the employee stood
408 in loco parentis when the individual was a minor child;

409 (2) "COVID-19" means the respiratory disease designated by the
410 World Health Organization on February 11, 2020, as coronavirus 2019,
411 and any related mutation thereof recognized by the World Health
412 Organization as a communicable respiratory disease;

413 (3) "Employee" means an individual engaged in service to an
414 employer in the business of the employer;

415 (4) "Employer" means any person, firm, business, educational
416 institution, nonprofit organization, corporation, limited liability
417 company or other entity, except that the Personal Care Attendant
418 Workforce Council established under section 17b-706a of the general
419 statutes shall act on behalf of the employer of all personal care
420 attendants, as defined in section 17b-706 of the general statutes.
421 "Employer" does not include the federal government;

422 (5) "Family member" means (A) the employee's spouse, as defined in
423 section 31-51kk of the general statutes, child, parent, grandparent,
424 grandchild or sibling, whether related to the employee by blood,
425 marriage, adoption or foster care, or (B) an individual related to the
426 employee by blood or affinity whose close association with the
427 employee is the equivalent of those family relationships;

428 (6) "Parent" means a biological parent, foster parent, adoptive parent,
429 stepparent, parent-in-law of the employee or legal guardian of an
430 employee or an employee's spouse, an individual standing in loco
431 parentis to an employee, or an individual who stood in loco parentis to
432 the employee when the employee was a minor child; and

433 (7) "Retaliatory personnel action" means any termination,

434 suspension, constructive discharge, demotion, unfavorable
435 reassignment, refusal to promote, reduction of hours, disciplinary
436 action or other adverse employment action taken by an employer
437 against an employee.

438 Sec. 8. (NEW) (*Effective from passage*) (a) (1) Each employer shall
439 provide to each of its employees COVID-19 sick leave in addition to any
440 paid sick leave provided by the employer pursuant to section 31-57s of
441 the general statutes, as amended by this act. The COVID-19 sick leave
442 shall be (A) in the amount of eighty hours for each employee who
443 regularly works forty or more hours per week, or (B) equal to the
444 amount of hours the employee is regularly scheduled to work or works
445 in a two-week period, whichever is greater, for each employee who
446 regularly works less than forty hours per week.

447 (2) An employee exempt from overtime requirements under 29 USC
448 213(a)(1), as amended from time to time, shall be assumed to work forty
449 hours per week for purposes of calculating COVID-19 sick leave, unless
450 such employee regularly works less than forty hours per week, in which
451 case the COVID-19 sick leave shall be provided based upon the number
452 of hours regularly worked per week. An employee who regularly works
453 less than forty hours per week, but whose number of work hours varies
454 from week to week, shall be provided COVID-19 sick leave using the
455 average number of hours per week the employee was scheduled to work
456 in the six-month period immediately preceding the date on which the
457 employee utilizes COVID-19 sick leave, including the hours of any leave
458 taken by the employee, except that if the employee did not work over
459 such period, the average shall be the reasonable expectation of the
460 employee, at the time the employee was hired, of the average number
461 of hours per week the employee would be regularly scheduled to work.

462 (b) COVID-19 sick leave shall be provided one time to each employee
463 and shall be immediately available for use for any of the purposes
464 described in subsection (c) of this section beginning on the effective date
465 of this section, regardless of how long such employee has been
466 employed by the employer. An employee shall be entitled to use

467 COVID-19 sick leave retroactively starting on March 10, 2020, until four
468 weeks after the expiration of the public health and civil preparedness
469 emergencies declared by the Governor on March 10, 2020, or any
470 extension of such declarations.

471 (c) An employee shall be entitled to take COVID-19 sick leave when
472 the employee is unable to perform the functions of the job of such
473 employee, including through telework, due to any of the following
474 reasons related to COVID-19:

475 (1) The employee's need to: (A) Self-isolate and care for oneself
476 because the employee has been diagnosed with COVID-19 or is
477 experiencing symptoms of COVID-19; (B) seek preventive care
478 concerning COVID-19; or (C) seek or obtain medical diagnosis, care or
479 treatment if experiencing symptoms of COVID-19;

480 (2) The employee's need to comply with an order or determination to
481 self-isolate, on the basis that the employee's physical presence on the job
482 or in the community would jeopardize the employee's health, the health
483 of other employees or the health of an individual in the employee's
484 household because of: (A) Possible exposure to COVID-19; or (B) the
485 exhibition of symptoms of COVID-19, regardless of whether the
486 employee has been diagnosed with COVID-19;

487 (3) The employee's need to care for a family member who is: (A) Self-
488 isolating, seeking preventive care or seeking or obtaining medical
489 diagnosis, care or treatment for the purposes described in subdivision
490 (1) of this subsection; or (B) self-isolating due to an order or
491 determination as described in subdivision (2) of this subsection;

492 (4) The employee's inability to work or telework because the
493 employee is: (A) Prohibited from working by the employer due to health
494 concerns related to the potential transmission of COVID-19; or (B)
495 subject to an individual or general local, state or federal quarantine or
496 isolation order, including a shelter-in-place or stay-at-home order,
497 related to COVID-19;

498 (5) The employee's need to care for a family member when the care
499 provider of such family member is unavailable due to COVID-19 or if
500 the family member's school or place of care has been closed by a local,
501 state or federal public official or at the discretion of the school or place
502 of care, due to COVID-19, including if a school or place of care: (A) Is
503 physically closed but providing virtual learning instruction; (B) requires
504 or makes optional virtual learning instruction; or (C) requires or makes
505 available a hybrid of in-person and virtual learning instruction models;
506 or

507 (6) The employee's inability to work because the employee has a
508 health condition that may increase susceptibility to or risk of COVID-19,
509 including, but not limited to, age, heart disease, asthma, lung disease,
510 diabetes, kidney disease or a weakened immune system.

511 (d) An order or determination pursuant to subdivision (2) of
512 subsection (c) of this section or subparagraph (B) of subdivision (3) of
513 subsection (c) of this section shall be made by a local, state or federal
514 public official, a health authority having jurisdiction, a health care
515 provider or the employer of the employee or the employee's family
516 member. Such order or determination need not be specific to such
517 employee or family member.

518 (e) Each employer shall pay each employee for COVID-19 sick leave
519 at a pay rate equal to the greater of (1) the normal hourly wage for that
520 employee, or (2) the minimum fair wage rate under section 31-58 of the
521 general statutes in effect for the pay period during which the employee
522 used COVID-19 sick leave. For any employee whose hourly wage varies
523 depending on the work performed by the employee, "normal hourly
524 wage" means the average hourly wage of the employee in the pay period
525 prior to the one in which the employee uses COVID-19 sick leave.

526 (f) The employee shall provide advance notice to the employer of the
527 need for COVID-19 sick leave as soon as practicable only when the need
528 for COVID-19 sick leave is foreseeable and the employer's place of
529 business has not been closed.

530 (g) Notwithstanding any provision of sections 7 to 12, inclusive, of
531 this act, no documentation from an employee shall be required by an
532 employer for COVID-19 sick leave.

533 (h) If an employee is transferred to a separate division, entity or
534 location, but remains employed by the same employer, the employee
535 shall retain and be entitled to use all COVID-19 sick leave the employee
536 accrued or received in accordance with the provisions of sections 20 to
537 25, inclusive, of this act, at the prior division, entity or location. If a
538 different employer succeeds or takes the place of an existing employer,
539 each employee of the original employer who remains employed by the
540 successor employer shall retain and be entitled to use all COVID-19 sick
541 leave the employee accrued or received in accordance with the
542 provisions of sections 20 to 25, inclusive, of this act, while employed by
543 the original employer.

544 (i) An employer shall not require, as a condition of an employee's
545 taking COVID-19 sick leave, that the employee search for or find a
546 replacement worker to cover the hours during which the employee is
547 using COVID-19 sick leave.

548 Sec. 9. (NEW) (*Effective from passage*) (a) Nothing in sections 7 to 12,
549 inclusive, of this act shall be construed to: (1) Discourage or prohibit an
550 employer from the adoption or retention of a COVID-19 sick leave, paid
551 sick leave or other paid leave policy more generous than the one
552 required pursuant to section 8 of this act, including providing more
553 leave than required under said section; (2) diminish any rights provided
554 to any employee under a collective bargaining agreement; or (3) prohibit
555 an employer from establishing a policy whereby an employee may
556 donate unused COVID-19 sick leave to another employee.

557 (b) An employee may first use the COVID-19 sick leave provided
558 under section 8 of this act prior to using sick leave under section 31-57t
559 of the general statutes, as amended by this act. An employer may not
560 require an employee to use other paid leave provided by the employer
561 to the employee before the employee uses the COVID-19 sick leave.

562 Sec. 10. (NEW) (*Effective from passage*) (a) It shall be unlawful for an
563 employer or any other person to interfere with, restrain or deny the
564 exercise of, or the attempt to exercise, any right protected under sections
565 7 to 12, inclusive, of this act. No employer shall take retaliatory
566 personnel action or discriminate against an employee because the
567 employee (1) requests or uses COVID-19 sick leave in accordance with
568 the provisions of sections 7 to 12, inclusive, of this act, or (2) files a
569 complaint with the Labor Commissioner alleging the employer's
570 violation of any provision of said sections.

571 (b) The Labor Commissioner shall advise any employee who (1) is
572 covered by a collective bargaining agreement that provides for COVID-
573 19 sick leave, and (2) files a complaint pursuant to subsection (a) of this
574 section of the employee's right to pursue a grievance with his or her
575 collective bargaining agent.

576 (c) Any employee aggrieved by a violation of any provision of
577 sections 7 to 12, inclusive, of this act, may file a complaint with the Labor
578 Commissioner. Upon receipt of any such complaint, the Labor
579 Commissioner may hold a hearing. After the hearing, any employer
580 who is found by the Labor Commissioner, by a preponderance of the
581 evidence, to have violated any provision of this section shall be liable to
582 the Labor Department for a civil penalty in an amount consistent with
583 the penalties provided in section 31-57v of the general statutes, as
584 amended by this act. The Labor Commissioner may award the employee
585 appropriate relief consistent with the provisions of section 31-57v of the
586 general statutes, as amended by this act. Any party aggrieved by the
587 decision of the Labor Commissioner may appeal the decision to the
588 Superior Court in accordance with the provisions of section 4-183 of the
589 general statutes.

590 (d) Any person aggrieved by a violation of any provision of sections
591 7 to 12, inclusive, of this act, the Labor Commissioner, the Attorney
592 General or any entity a member of which is aggrieved by a violation of
593 any provision of sections 7 to 12, inclusive, of this act, may bring a civil
594 action in a court of competent jurisdiction against the employer

595 violating said sections. Such action may be brought by a person
596 aggrieved by a violation of this section without first filing an
597 administrative complaint.

598 (e) The Labor Commissioner shall administer this section within
599 available appropriations.

600 Sec. 11. (NEW) (*Effective from passage*) (a) Each employer subject to the
601 provisions of sections 7 to 12, inclusive, of this act shall, at the time of
602 hiring or not later than fourteen days after the effective date of this
603 section, whichever is later, provide written notice to each employee (1)
604 of the entitlement to COVID-19 sick leave, the amount of COVID-19 sick
605 leave provided and the terms under which COVID-19 sick leave may be
606 used, (2) that retaliatory personnel actions by the employer are
607 prohibited, and (3) of the right to file a complaint with the Labor
608 Commissioner or file a civil action for any violation of sections 7 to 12,
609 inclusive, of this act. Each employer shall also display a poster in a
610 conspicuous place, accessible to employees, at the employer's place of
611 business that contains the information required by this section in both
612 English and Spanish provided in cases where the employer does not
613 maintain a physical workplace, or an employee teleworks or performs
614 work through a web-based or application-based platform, notification
615 shall be sent via electronic communication or a conspicuous posting in
616 the web-based or application-based platform. The Labor Commissioner
617 shall provide such posters and model written notices to all employers.
618 Additionally, employers shall include in the record of hours worked,
619 wages earned and deductions required by section 31-13a of the general
620 statutes, the number of hours, if any, of COVID-19 sick leave received
621 by each employee, as well as any use of COVID-19 sick leave in the
622 calendar year.

623 (b) Employers shall retain records documenting hours worked by
624 employees and COVID-19 sick leave taken by employees, for a period
625 of three years, and shall allow the Labor Commissioner access to such
626 records, with appropriate notice and at a mutually agreeable time, to
627 monitor compliance with the requirements of this section. When an

628 issue arises as to an employee's entitlement to COVID-19 sick leave
629 under this section, if the employer does not maintain or retain adequate
630 records documenting hours worked by the employee and COVID-19
631 sick leave taken by the employee, or does not allow reasonable access to
632 such records, it shall be presumed that the employer has violated this
633 section absent clear and convincing evidence otherwise.

634 (c) The Labor Commissioner may coordinate implementation and
635 enforcement of sections 7 to 12, inclusive, of this act and shall adopt
636 regulations, in accordance with the provisions of chapter 54 of the
637 general statutes, for such purposes.

638 (d) The Labor Commissioner may develop and implement a
639 multilingual outreach program to inform employees, parents and
640 persons who are under the care of a health care provider about the
641 availability of COVID-19 sick leave. This program may include the
642 development of notices and other written materials in English and in
643 other languages. The Labor Commissioner shall administer this section
644 within available appropriations.

645 Sec. 12. (NEW) (*Effective from passage*) Unless required by law, an
646 employer shall not require disclosure of the details of an employee's or
647 an employee's family member's health information as a condition for
648 providing COVID-19 sick leave under sections 7 to 12, inclusive, of this
649 act. If an employer possesses health information about an employee or
650 an employee's family member, such information shall be treated as
651 confidential and not disclosed except to such employee or with the
652 permission of such employee.

653 Sec. 13. Subsection (a) of section 31-397 of the general statutes is
654 repealed and the following is substituted in lieu thereof (*Effective October*
655 *1, 2021*):

656 (a) The Labor Commissioner, in consultation with the Commissioner
657 of Public Health, shall encourage the development of occupational
658 health clinics by making grants-in-aid to public and nonprofit
659 organizations. Such grants-in-aid shall be used to facilitate the

660 development and operation of such clinics, including, but not limited to,
 661 preproject development, site acquisition, development, improvement
 662 and operating expenses. Such grants-in-aid may be used for activities
 663 involved in occupational disease evaluation, treatment and prevention,
 664 particularly when such activities are not compensated by other sources.
 665 Priority for such grants-in-aid may be given to organizations providing
 666 services for working age populations, including, but not limited to,
 667 migrant and contingent workers, where health disparities or work
 668 structure interfere with the provision of occupational health care
 669 services. Such grants-in-aid shall not be used to compensate any
 670 occupational health clinic for any activities that utilize commercial
 671 services or involve grants or contracts received from an outside party.
 672 The commissioner shall consult with the Occupational Health Clinics
 673 Advisory Board prior to making any such grant. For purposes of this
 674 subsection, "contingent worker" means an individual whose
 675 employment is of a temporary and sporadic nature and may include,
 676 but not be limited to, (1) an agricultural worker, (2) an independent
 677 contractor, as defined in section 36a-485, or [a day or temporary worker,
 678 as defined in section 31-57r] (3) an individual who performs work for
 679 another on (A) a per diem basis, or (B) an occasional or irregular basis
 680 for only the time required to complete such work, whether such
 681 individual is paid by the person for whom such work is performed or
 682 by an employment agency or temporary help service, as defined in
 683 section 31-129.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	31-57r
Sec. 2	July 1, 2021	31-57s
Sec. 3	July 1, 2021	31-57t
Sec. 4	July 1, 2021	31-57u
Sec. 5	July 1, 2021	31-57v
Sec. 6	July 1, 2021	31-57w
Sec. 7	from passage	New section
Sec. 8	from passage	New section
Sec. 9	from passage	New section

Sec. 10	<i>from passage</i>	New section
Sec. 11	<i>from passage</i>	New section
Sec. 12	<i>from passage</i>	New section
Sec. 13	<i>October 1, 2021</i>	31-397(a)

Statement of Legislative Commissioners:

In Section 1(1), "[of a service worker, or] or, in the alternative" was changed to "of [a service worker] an employee, or" for clarity; in Section 2(c), "subsections (a) and (b)" was changed to "[subsections] subsection (a) [and (b)]" for accuracy; in Section 2(e), "Section" and "of the Federal Fair Labor Standards Act" were deleted and "as amended from time to time" was added for accuracy and consistency with standard drafting conventions; Section 2(f) was rewritten for clarity, conciseness and consistency with standard drafting conventions; in Section 3(b), "[service worker's] employee's child or spouse" was changed to "[service worker's child or spouse] family member" for accuracy and consistency, "(3)" was changed to "[(3)] (4)" for accuracy, and "domestic violence, sexual assault, harassment or stalking" was changed to "family violence or sexual assault" for consistency; Section 5(d) was redesignated as Section 5(e) and Section 5(e) was redesignated as Section 5(d) for consistency; in Section 6(a), "individual" was moved from before "notice" to before "employee" for clarity, "six months after the effective date of this section" was changed to "January 1, 2022" for clarity and consistency with standard drafting conventions, "provided, however" was changed to "except" for accuracy and the last sentence was rewritten for clarity and consistency with standard drafting conventions; in Section 7, a definition of "COVID-19" was added for clarity and consistency and the definition of "employer" was rewritten for clarity and to conform with changes being made in Section 1; in Section 8(a)(1), "and 31-57t" was deleted for accuracy; in Section 8(a)(2), "provided" was changed to "except that" for accuracy; Section 8(b) was rewritten for accuracy and clarity; Section 8(h) was rewritten for clarity and conciseness; in Section 11(a) the last sentence was deleted to avoid redundancy; Section 11(c) was rewritten for consistency with standard drafting conventions; and Section 13 was added to conform with the changes being made in Section 1.

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Social Services, Dept.; Department of Developmental Services	GF - Cost	At least 4.2 - 8.4 million	At least 4.2 - 8.4 million
Labor Dept.	GF - Cost	287,942	319,529
State Comptroller - Fringe Benefits ¹	GF - Cost	114,955	127,588
Social Services, Dept.; Department of Developmental Services	GF - Potential Revenue Loss	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill, which expands the state's current paid sick leave law and establishes a new paid sick leave requirement for leave specifically related to COVID-19, results in: 1) a cost of at least \$4.2 million and up to \$8.4 million in each of FY 22 and FY 23, 2) a cost to the Department of Labor (DOL) of \$402,897 in FY 22 and \$447,117 in FY 23, and 3) a potential loss of federal revenue.

Expanding those covered under the paid sick leave law, as well as expanding the covered leave itself, results in an additional cost to the

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.3% of payroll in FY 22 and FY 23.

DOL to administer.² Specifically, the DOL would need two additional Wage Enforcement Agents and one Staff Attorney for a total cost of \$393,297 in FY 22 and \$436,517 in FY 23, including salaries and benefits. There are also associated overhead costs estimated at \$9,600 for FY 22 and \$10,600 for FY 23 for computers, office supplies, etc.

The bill also results in a cost to the Departments of Social Services (DSS) and Developmental Services (DDS) associated with paid sick leave for personal care attendants (PCAs). Cost components include (1) payment to PCAs for sick leave, (2) payment to PCAs to provide necessary services to Medicaid consumers while another PCA is taking sick leave, and (3) enhanced contract costs for the PCA Workforce Council to administer paid sick leave benefits.

There are approximately 13,000 active PCAs supporting DSS and DDS Medicaid consumers paid a rate of approximately \$16.25 per hour. Assuming between 50% to 100% of active PCA's use at least 40 hours of paid sick leave per year, it will increase state costs by approximately \$4.2 million to \$8.4 million, annually.

The bill also requires the PCA Workforce Council to act on behalf of consumer employers of PCAs for purposes of the bill. This is anticipated to increase state contract costs to support the administration of paid sick leave benefits through fiscal intermediaries.

Additionally, since most DSS and DDS consumers with funding for PCAs are enrolled in a Home and Community-Based Medicaid waiver, the bill may also result in a potential federal revenue loss to the extent the bill's provisions conflict with Medicaid waiver requirements.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

² The current paid sick leave law covers employers with over 50 employees (excluding manufacturers and some non-profits) and only applies to 69 job classifications. The bill expands coverage to all private-sector employers, which includes an estimated 110,000 employers and 1.6 million workers.

OLR Bill Analysis**sHB 6537*****AN ACT CONCERNING EXPANSION OF PAID SICK DAYS AND DOMESTIC WORKER COVERAGE.*****SUMMARY**

This bill expands the state's current paid sick leave law in numerous ways. It also establishes a new paid sick leave requirement for leave specifically related to COVID-19.

The state's current paid sick leave law generally requires employers with at least 50 employees to provide paid sick leave to their "service workers" in certain specified occupations. The bill expands the law by, among other things:

1. covering all private-sector employers and employees under it;
2. broadening the types of family members for whom an employee may use the leave;
3. increasing the rate at which employees accrue leave and removing the waiting period before they may use it; and
4. broadening the reasons employees may use the leave to include things such as the employer's closure due to a public health emergency.

It also makes numerous minor, technical, and conforming changes to the paid sick leave law.

The bill also creates a new requirement for all private-sector employers to provide additional COVID-19 sick leave to their employees. They must provide at least 80 hours of this leave to their regular full-time employees and a prorated amount of leave for other

employees. The bill allows employees to use the leave retroactively to March 10, 2020, and until four weeks after the governor's emergency declarations (presumably COVID-19-related) expire.

Under the bill, employees may use the COVID-19 sick leave for various reasons related to COVID-19, such as complying with a COVID-19 quarantine order; caring for a family member subject to a quarantine order; caring for a child whose school was closed due to COVID-19; or having a health condition that may increase the employee's susceptibility to COVID-19. Employees must be paid their normal hourly wage for their time on leave.

The bill requires the labor commissioner to enforce the bill's COVID-19 sick leave provisions, but it also allows people aggrieved by a violation to bring a civil lawsuit without first filing an administrative complaint with the commissioner. Among other things, it also establishes employer notice and recordkeeping requirements.

EFFECTIVE DATE: July 1, 2021, for the provision that expands the existing paid sick leave; upon passage for the provisions that establish COVID-19 sick leave.

§§ 1-6 — EXISTING PAID SICK LEAVE EXPANSION

Covered Employers & Employees (§ 1)

The current paid sick leave law covers private sector employers with at least 50 employees, except manufacturers and certain non-profits. The bill covers all private sector employers regardless of their size, industry, or non-profit status. It also requires the state's Personal Care Attendant Workforce Council to act on behalf of the employers of people who provide personal care assistance (PCAs) under a state-funded program, such as the Connecticut Home Care Program for Elders. (The consumer for whom the PCA provides services for is generally otherwise considered the PCA's employer.)

The bill also expands current law to cover all private sector employers' employees, rather than only the specified "service worker" occupations covered by current law. It also includes the day or

temporary workers excluded from the current paid sick day law.

Family Members (§ 1)

Current law allows covered employees to use paid sick time to care for their child or spouse. The bill broadens the range of “family members” that employees may use paid sick time to care for to include their adult children, siblings, parents, grandparents, grandchildren, and anyone related by blood or affinity whose close association is the equivalent of these family members. Under the bill, children, siblings, parents, grandparents, and grandchildren include those relations by blood, marriage, adoption, or foster care.

Leave Accrual, Availability, and Uses (§§ 2-4)

Leave Accrual. The bill increases the rate at which employees accrue leave time, from one hour per every 40 hours worked to one hour per every 30 hours worked. It also allows employers to provide an employee, at the beginning of the year, with all of the sick leave that the employer expects the employee to accrue in the year.

The bill specifies that employees exempt from federal law’s overtime pay requirements must be assumed to work 40 hours per week for leave accrual purposes, unless their normal work week is less than 40 hours. If it is, then their leave accrual must be based on their normal work week. (Current law does not explicitly address this issue.)

Under current law, an employee’s termination is a break in service and the employee’s previously accrued sick time does not carry over if the employee is rehired by the same employer. The bill instead entitles a re-employed employee to any sick time he or she previously accrued with the employer.

The bill requires that employees maintain their accrued paid sick time when (1) they transfer to a separate division, entity, or location with the same employer or (2) when a different employer succeeds or replaces an existing employer. (Current law does not explicitly address either of these issues.)

Leave Availability. Under current law, employees must work 680 hours for their employer before they can use their leave. The bill instead allows employees to use their leave as it is accrued. It also allows employees to use the leave regardless of how much they work by eliminating a provision in current law that allows employees to use leave only if they average at least 10 work hours per week.

Leave Uses. The bill expands the reasons for which an employee may use sick leave to include when (1) the employer's place of business is closed by order of a public official due to a public health emergency or (2) an employee needs to care for a family member whose school or place of care has been closed by such an order.

It also allows for leave if the employee needs to care for him or herself or a family member under quarantine (i.e., when it has been determined that the employee or family member's presence in the community may jeopardize others' health because of their exposure to a communicable disease, regardless of whether they actually contracted it). The determination for a quarantine must be made by a health authority with jurisdiction, a health care provider, or the employee's or family member's employer.

Current law allows an employee to use paid sick leave if he or she was a victim of family violence or sexual assault and needs leave to do certain things (e.g., receive counseling or participate in civil or criminal proceedings). The bill additionally allows employees to use the leave if their family member is a victim of family violence or sexual assault and needs to do these same things.

The current paid sick leave law deems an employer in compliance with its requirements to provide leave if the employer offers other paid leave that may be used for the same purposes as provided in the law. The bill requires that employees be able to use the other paid leave under the same conditions for the exception to apply.

The bill prohibits employers from requiring employees taking paid sick leave to look for or find a replacement to cover their hours on leave.

It also removes a provision in current law that prohibits an employer from requiring employees to their use accrued paid sick leave if they choose to work additional hours or shifts during the same or following pay period, in lieu of hours or shifts missed.

Documentation (§ 3)

Under certain circumstances, current law allows employers to require employees to provide documentation to support their reasons for taking leave. The bill limits this authority by prohibiting employers from requiring documentation that explains the nature of the illness or, if the employee is taking leave due to family violence or sexual assault, the details of the domestic violence, sexual assault, harassment, or stalking.

If the employer requires documentation but does not offer health insurance, the bill requires the employer to pay all out-of-pocket expenses for obtaining the documentation. If the employee has health insurance, the employer must pay any costs charged to the employee for the documentation. The employer must pay any costs charged to the employee for obtaining documentation for leave related to family violence, sexual assault, harassment, or stalking.

Lawsuits (§ 5)

The bill expands the current law's enforcement provisions to also allow the labor commissioner, the attorney general, or someone aggrieved by a violation of the paid sick leave law to bring a lawsuit against an employer without first filing an administrative complaint with the labor commissioner. Under current law, someone aggrieved by a violation may file a complaint with the labor commissioner and then appeal the commissioner's decision to the Superior Court.

Employer Notice & Records (§ 6)

Current law requires employers to notify employees about certain provisions of the paid sick leave law and allows them to do so by displaying a poster in the workplace. The bill instead requires employers to give written notice to each employee about these

provisions and display a poster about them in the workplace. They must do this by January 1, 2022, or when an employee is hired, whichever is later. If the employer does not maintain a physical workplace, or an employee teleworks or works through a web-based or app-based platform, the bill requires the employer to provide the notices through electronic communication or a posting on a web-based or app-based platform. It also requires the labor commissioner, within available appropriations, to provide posters and model written notices to employers.

The bill requires that employee “pay stubs” include an employee’s accrued paid sick time and use for the calendar year. It also requires employers to maintain their paid sick leave records for three years and give the labor commissioner access to them, with appropriate notice and at a mutually agreeable time (the bill does not specify when this three-year period begins). If an issue arises over an employee’s entitlement to paid sick leave and the employer does not have the required records, the bill requires that it be presumed that the employer violated the law’s notice and records requirements, absent clear and convincing evidence otherwise.

DOL Outreach Program (§ 6)

The bill allows the labor commissioner, within available appropriations, to develop and implement a multilingual outreach program to inform people about the paid sick leave law. The program must include notices and other written material in English, Spanish, and any language that is the first language spoken by at least 5% of the state’s population. These must be distributed to all child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers, and other health care providers.

Lastly, the bill requires the labor commissioner to adopt regulations to implement the paid sick time law. Current law allows him to adopt regulations about the law’s notice requirements.

§§ 7-12 — COVID-19 SICK LEAVE

Leave Requirement (§§ 7, 8(a)&(b))

The bill requires all private-sector employers to provide their employees with additional COVID-19 sick leave that they can use for certain purposes related to COVID-19. They must provide at least 80 hours of this leave to employees who normally work 40 hours per week. Employees who work less than that must receive COVID-19 sick time that equals the amount of time they are scheduled to work or that they work on average over a two-week period, whichever is greater. Employees exempt from federal law's overtime pay requirements must be assumed to work 40 hours per week for leave accrual purposes, unless their normal work week is less than 40 hours. If it is, then their leave accrual must be based on their normal work week.

To calculate leave amounts for employees who work variable schedules of less than 40 hours per week, the bill requires employers to use the employee's average weekly hours over the six months preceding the leave, including any leave hours that the employee took during that period. If the employee did not work over that period, the average must be the employee's reasonable expectation, at the time of hire, of the average number of hours per week that he or she would be regularly scheduled to work.

The bill requires that the leave be available to employees immediately and retroactively to March 10, 2020, regardless of how long they have been employed, and remain available until four weeks after the governor's emergency declarations (presumably over COVID-19) expire.

"Employers" who must provide COVID-19 sick leave are any person, firm, business, educational institution, nonprofit organization, corporation, limited liability company, or other entity. This includes the state's Personal Care Attendant Workforce Council, which under the bill is the employer of people who provide personal care assistance (PCAs) under a state-funded program, such as the Connecticut Home Care Program for Elders. It does not include the federal government.

“Employees” eligible for COVID-19 sick leave under the bill are anyone engaged in service to an employer in the employer’s business.

Reasons for Leave (§§ 7-8(c)&(d))

Under the bill, employees may use the COVID-19 sick leave when they are unable to work, including through telework, because they:

1. need to (a) self-isolate and care for themselves due to a COVID-19 diagnosis or symptoms; (b) seek COVID-19 preventive care; or (c) seek or obtain a diagnosis, care, or treatment for COVID-19 symptoms;
2. need to comply with an order or determination to self-isolate because of their possible exposure to COVID-19 or have COVID-19 symptoms, regardless of whether they were diagnosed with COVID-19, and their physical presence on the job or in the community would jeopardize their health or that of other employees or someone in the employee’s household (i.e., a quarantine order);
3. need to care for a family member who is (a) self-isolating or seeking preventive care, diagnosis, or treatment or (b) self-isolating due to a COVID-19 quarantine order;
4. were prohibited from working by their employer due to health concerns related to potential COVID-19 transmission;
5. are subject to an individual or general local, state, or federal quarantine or isolation order related to COVID-19;
6. need to care for a child or other family member whose care provider is unavailable due to COVID-19 or whose school or place of care has been closed by a local, state, or federal public official due to COVID-19 (including schools that are (a) physically closed but providing virtual learning, (b) requiring or allowing virtual learning, or (c) requiring or allowing a hybrid of in-person and virtual learning); or

7. have a health condition that may increase susceptibility to or risk of COVID-19, including age, heart disease, asthma, lung disease, diabetes, kidney disease, or a weakened immune system.

If the employee needs the leave to self-isolate due to a quarantine order, or to care for a family member who must self-isolate due to a quarantine order, the order must be from a local, state, or federal public official, a health authority with jurisdiction, or the employer of the employee or employee's family member. But it does not have to be specific to the employee or family member.

Under the bill, a "family member" for whom an employee may take COVID-19 sick leave is (1) the employee's spouse, child, parent, grandparent, grandchild, or sibling, whether related to the employee by blood, marriage, adoption or foster care, or (2) an individual related to the employee by blood or affinity whose close association with the employee is the equivalent of those family relationships. A "parent" is a biological parent, foster parent, adoptive parent, stepparent, parent-in-law of the employee, legal guardian of an employee or an employee's spouse, an individual standing in loco parentis (i.e., in place of a parent) to an employee, or an individual who stood in loco parentis to the employee when the employee was a minor child.

COVID-19 Sick Leave Pay (§ 8(e))

The bill requires that an employee's pay for COVID-19 sick leave be the greater of the employee's normal hourly wage or the minimum wage. If an employee's hourly wage varies, the "normal hourly wage" is the employee's average hourly wage over the pay period prior to the one in which the employee uses the leave.

Employee Notice & Documentation (§ 8(f)&(g))

The bill requires an employee to give the employer advance notice about the need for COVID-19 sick leave as soon as practicable, but only if the need for leave is foreseeable and the employer's place of business has not been closed. It prohibits an employer from requiring an employee to provide documentation for COVID-19 sick leave.

Transfers & Successor Employers (§ 8(h))

The bill requires that employees maintain their accrued COVID-19 sick leave when (1) they transfer to a separate division, entity, or location with the same employer or (2) when a different employer succeeds or replaces an existing employer.

Employee Replacements (§ 8(i))

The bill prohibits employers from requiring that an employee search for or find a replacement worker to cover the hours during which the employee is using COVID-19 sick leave.

Other Benefits and Collective Bargaining Agreements (§ 9)

The bill specifies that its COVID-19 sick leave provisions do not (1) discourage or prohibit an employer from adopting or retaining a more generous COVID-19 sick leave, paid sick leave, or other paid leave policy; (2) diminish any rights provided to an employee under a collective bargaining agreement; or (3) prohibit an employer from establishing a policy that allows employees to donate unused COVID-19 sick leave to other employees.

It also allows an employee to use the COVID-19 sick leave before using the paid sick leave provided by current law, as amended by the bill. And it prohibits an employer from requiring an employee to use other paid leave before using the COVID-19 leave.

Enforcement (§ 10)

The bill makes it illegal for an employer or anyone else to interfere with, restrain, or deny someone using or trying to use the bill's COVID-19 sick leave rights. It prohibits employers from taking retaliatory personnel actions or discriminating against an employee because the employee (1) requests or uses COVID-19 sick leave or (2) files a complaint with the labor commissioner alleging the employer's violation. Under the bill, a "retaliatory personnel action" is a termination, suspension, constructive discharge, demotion, unfavorable reassignment, refusal to promote, reduction of hours, disciplinary action, or other adverse employment action taken by an employer

against an employee.

Complaints & Lawsuits. The bill allows an employee aggrieved by a violation of the bill's COVID-19 sick leave provisions to file a complaint with the labor commissioner. Upon receiving the complaint, the commissioner may hold a hearing. If he finds the employer in violation by a preponderance of the evidence, the bill imposes the same civil penalty allowed under the paid sick day law (up to \$500) and allows the commissioner to award the employee appropriate relief (e.g., pay for used sick leave, rehiring). A party aggrieved by the commissioner's decision may appeal to the Superior Court.

The bill requires the labor commissioner to advise an employee who files a complaint and is covered by a collective bargaining agreement that provides for COVID-19 sick leave about the employee's right to pursue a grievance with his or her collective bargaining agent.

The bill also allows anyone aggrieved by a violation of the bill's COVID-19 sick leave provisions, the labor commissioner, or the attorney general to bring a civil action in court without first filing an administrative complaint.

The bill requires the labor commissioner to administer these enforcement provisions within available appropriations.

Employer Notice & Records Requirements (§ 11)

Employer Notice. The bill requires employers to provide written notice to each employee (1) about the entitlement to COVID-19 sick leave, the amount of leave provided, and the terms under which it can be used; (2) that retaliatory personnel actions are prohibited; and (3) about the right to file a complaint with the labor commissioner or file a civil action. They must provide this notice within 14 days after the bill takes effect or at the employee's time of hiring, whichever is later.

The bill also requires employers to display a poster that contains the same information in both English and Spanish. If the employer does not maintain a physical workplace, or an employee teleworks or performs

work through a web-based or app-based platform, the notification must be sent via electronic communication or a conspicuous posting in the web-based or app-based platform. The bill requires the labor commissioner to provide the posters and model written notices to all employers.

Additionally, the bill requires employers to include in employee pay stubs the number of hours, if any, of COVID-19 sick leave received and used by each employee in the calendar year.

Employer Records Requirements. The bill requires employers to retain records documenting the hours worked and COVID-19 sick leave taken by employees for three years. (The bill does not specify when this three-year period begins.) The employers must allow the labor commissioner to access them, with appropriate notice and at a mutually agreeable time, to monitor compliance. For issues about an employee's entitlement to COVID-19 sick leave, if the employer does not maintain or retain adequate records, or does not allow reasonable access to them, the bill requires that it be presumed that the employer violated these recordkeeping requirements unless there is clear and convincing evidence otherwise.

DOL. The bill allows the labor commissioner to develop and implement a multilingual outreach program to inform employees, parents, and people under a health care provider's care about the availability of COVID-19 sick leave. The program may include notices and written materials in English and other languages.

It also requires the labor commissioner to promulgate appropriate guidelines or regulations to coordinate implementation and enforcement of the bill's COVID-19 sick leave provisions.

It requires the labor commissioner to administer these provisions on DOL's and the bill's employer notice and records requirements within available appropriations.

Disclosure of Health Information (§ 12)

Unless otherwise required by law, the bill prohibits an employer from requiring disclosure of the details of an employee's or an employee's family member's health information as a condition for providing COVID-19 sick leave. If an employer possesses this health information, it must be treated as confidential and not disclosed except to the employee or with the employee's permission.

BACKGROUND

Related Bills

sHB 6595 (§§ 20-25) and sSB 1002 (§§ 20-25), reported favorably by the Labor and Public Employee Committee, both contain COVID-19 sick leave provisions that are identical to §§ 7-12 in this bill.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 4 (03/25/2021)